



UNITED STATES **DEPARTMENT OF COMMERCE**  
Patent and Trademark Office  
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
07/625,637	12/07/90	FRALEY	

18M2/0802  
THOMAS P. MCBRIDE  
MONSANTO COMPANY - BB4F  
700 CHESTERFIELD VILLAGE PARKWAY  
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R	38-21 (10525)
EXAMINER	
FOX, D	
ART UNIT	PAPER NUMBER
32	
DATE MAILED: 4	

08/02/93

#### NOTICE OF ALLOWABILITY

##### PART I.

*Favorable decision re interference of 7/14/93  
and Exam. Amend. of 7/29/93*

- This communication is responsive to \_\_\_\_\_
- All the claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice Of Allowance And Issue Fee Due or other appropriate communication will be sent in due course.
- The allowed claims are 1-2, 4-11, 13-21
- The drawings filed on 2/5/92 are acceptable.
- Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has [ ] been received. [ ] not been received. [ ] been filed in parent application Serial No. \_\_\_\_\_, filed on \_\_\_\_\_
- Note the attached Examiner's Amendment.
- Note the attached Examiner Interview Summary Record, PTOL-413.
- Note the attached Examiner's Statement of Reasons for Allowance.
- Note the attached NOTICE OF REFERENCES CITED, PTO-892.
- Note the attached INFORMATION DISCLOSURE CITATION, PTO-1449.

##### PART II.

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" indicated on this form. Failure to timely comply will result in the ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
- APPLICANT MUST MAKE THE DRAWING CHANGES INDICATED BELOW IN THE MANNER SET FORTH ON THE REVERSE SIDE OF THIS PAPER.
  - Drawing informalities are indicated on the NOTICE RE PATENT DRAWINGS, PTO-948, attached hereto or to Paper No. \_\_\_\_\_. CORRECTION IS REQUIRED.
  - The proposed drawing correction filed on \_\_\_\_\_ has been approved by the examiner. CORRECTION IS REQUIRED.
  - Approved drawing corrections are described by the examiner in the attached EXAMINER'S AMENDMENT. CORRECTION IS REQUIRED.
  - Formal drawings are now REQUIRED.

Any response to this letter should include in the upper right hand corner, the following information from the NOTICE OF ALLOWANCE AND ISSUE FEE DUE: ISSUE BATCH NUMBER, DATE OF THE NOTICE OF ALLOWANCE, AND SERIAL NUMBER.

##### Attachments:

- Examiner's Amendment
- Examiner Interview Summary Record, PTOL-413
- Reasons for Allowance
- Notice of References Cited, PTO-892
- Information Disclosure Citation, PTO-1449

- Notice of Informal Application, PTO-152
- Notice re Patent Drawings, PTO-948
- Listing of Bonded Draftsmen
- Other

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

IN THE SPECIFICATION:

On page 1, line 5, the following phrase was inserted after "is":

--a continuation ~~of~~ U.S. Application Serial No. 931,492, filed on November 17, 1986, now Abandoned, which is--.

IN THE CLAIMS:

Claims 1, 4, and 7 were amended as follows.

--1. (twice amended) In a method for transforming a plant cell to express a chimeric gene, the improvement which comprises a chimeric gene containing a promoter from cauliflower mosaic virus (CaMV), said promoter selected from the group consisting of a CaMV (35S) promoter isolated from CaMV protein-encoding DNA sequences and a CaMV (19S) promoter isolated from CaMV protein-encoding DNA sequences.--

--4.1 (four times amended) A chimeric gene which is expressed in plant cells comprising a promoter from a cauliflower mosaic virus, said promoter selected from the group consisting of a CaMV (35S) promoter isolated from CaMV protein-encoding DNA sequences and a CaMV (19S) promoter isolated from CaMV protein-

*63/*  
encoding DNA sequences, and a structural sequence which is heterologous with respect to the promoter.--

*64*  
~~-24~~ (four times amended) A plant cell which comprises a chimeric gene that contains a promoter from cauliflower mosaic virus, said promoter selected from the group consisting of a CaMV (35S) promoter and a CaMV (19S) promoter, wherein said promoter is isolated from CaMV protein-encoding DNA sequences, and a structural sequence which is heterologous with respect to the promoter.--

*I*  
New claim 21 was added as it appears below.

*13*  
~~--21.~~ A DNA construct comprising:  
(A) a CaMV promoter selected from the group consisting of (1) a CaMV 35S promoter isolated from CaMV protein-encoding DNA sequences and (2) a CaMV 19S promoter isolated from CaMV protein-encoding DNA sequences, and  
(B) a DNA sequence of interest heterologous to (A), wherein (B) is under the regulatory control of (A) when said construct is transcribed in a plant cell.--

Authorization for this Examiner's Amendment was given in a telephone interview with Lawrence M. Lavin, Jr. on 29 July 1993.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fox whose telephone number is (703) 308-0280.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

July 29, 1993

DAVID T. FOX  
PRIMARY EXAMINER  
GROUP 180

*David T. Fox*



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

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NOTICE OF ALLOWANCE  
AND ISSUE FEE DUE

Note attached communication from the Examiner

This notice is issued in view of applicant's communication filed \_\_\_\_\_

SERIES CODE/SERIAL NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
07/625,637	12/07/90	019	FOX, D	1804 08/02/93
First Named Applicant	FRALEY, ROBERT T.			

ITLE OF  
INVENTION: HIMERIC GENES FOR TRANSFORMING PLANT CELLS USING VIRAL PROMOTERS

	ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEES DUE	DATE DUE
1	38-21 (10525)	435-172.300	P37	UTILITY	NO	\$1170.00	11/02/93

**THE FEE DUE IS THE AMOUNT IN EFFECT AT THIS TIME. IF THE AMOUNT OF THE ISSUE FEE INCREASES PRIOR  
TO PAYMENT, APPLICANT WILL BE NOTIFIED OF THE BALANCE OF ISSUE FEE DUE.**

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT.**

**PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS  
APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

**HOW TO RESPOND TO THIS NOTICE:**

Review the SMALL ENTITY Status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

If the SMALL ENTITY is shown as NO:

- Pay FEE DUE shown above, or
- File verified statement of Small Entity Status before, or with, pay of 1/2 the FEE DUE shown above.

- If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- If the Status is the same, pay the FEE DUE shown above.

Part B of this notice should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B should be completed and returned. If you are charging the ISSUE FEE to your deposit account, Part C of this notice should also be completed and returned.

- All communications regarding this application must give series code (or filing date) and serial number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to contrary.

**IMPORTANT REMINDER: Patents Issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**